



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/540,401 | 03/31/2000 | James L. Boney | 07442.0010-02 | 2208 |

32026 7590 11/20/2002

JOHN CAMPA, ESQ.
NIXON PEABODY LLP
P.O. BOX 31051
ROCHESTER, NY 14603-1051

EXAMINER

HARRIS, CHANDA L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3714

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/540,401

Applicant(s)

BONEY ET AL.

Examiner

Chanda L. Harris

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,11-14. 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

In response to the Amendments filed on February 28, 2002 and October 1, 2002, Claims 5-35 are pending. Claims 1-4 are cancelled.

Oath/Declaration

In the Oath/Declaration, Applicant is claiming benefit under 35 U.S.C. 120 of application serial number 09/364,046, but the continuation statement in the specification references application serial number 09/365,243.

Drawings

A copy of the Notice of Draftsperson (PTO 948) completed on August 22, 2001 is attached.

Specification

For consideration of the amended specification, Applicant needs to provide a "no new matter" statement. This is to affirm that no new matter has been introduced into the specification.

Claim Objections

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 14: "the interface system" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 5-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Freeman et al. (US 6,301,462).

1. [Claims 5,16,26]: Regarding Claims 5, 16, and 26, Freeman discloses a communication system that receives control data from at least one of the plurality of clients, the control data associated with tasks to be performed for a training exercise. See Col.2: 63-Col.3: 3. Freeman discloses a control system (i.e. server) configured to

access a first set of two or more of the electronic training devices (e.g. online modules, chat sessions, conferences, course content, TV WEB browsers, WEB access device, workstations, etc.) based upon one or more requirements of the training exercise, the control system manipulating the first set of the electronic training devices according to the control data for the training exercise. See Col.5: 42-61 and Col.6: 25-34. Examples of requirements are adherence to a protocol such as the Internet protocol and the capability of conducting training exercises off-line.

2. [Claims 6, 17, 27]: Regarding Claims 6,17, and 27, Freeman discloses wherein the control system is further configured to access a second set (e.g. online experts, online textbooks) of one or more electronic training devices based upon the requirements of the training exercise, the control system manipulating the first set and the second set of the electronic training devices for the training exercise. See Col.6: 25-34.

3. [Claims 7,18,28]: Regarding Claims 7,18, and 28, Freeman discloses whereon the control system comprises a resource control system (i.e. host system) which receives overhead information from a server, the overhead information representing a generic set of commands to control the first set of electronic devices for the training exercise, the resource control system interpreting the overhead information to manipulate at least one of a first type and a second type of electronic training devices in the first set. See Col.5: 1-30.

4. [Claims 8-9, 19-20, 29-30]: Regarding Claims 8-9,19-20, and 29-30, Freeman discloses wherein the at least one client comprises a computer device and wherein the

first set or a second set of the electronic training devices comprise computer network components. See Col.5: 51-57.

5. [Claims 10, 21,31]: Regarding Claims 10,21, and 31, Freeman discloses wherein the first set or a second set of the electronic training devices execute at least one instruction in the control data. See Col.5: 38-39.

6. [Claims 11, 22,32]: Regarding Claims 11,22, and 32, Freeman discloses wherein the first or the second set of the electronic training devices provide one or more results (e.g. course content) of the at least one instruction execution back to the at least one client through the interface system, the interface system translating the results from a first format understood by the at least one client, the communication system transmitting the translated results back to the at least one client. See Col.5: 42-50.

7. [Claims 12, 23,33]: Regarding Claims 12,23, and 33, Freeman discloses wherein the communication system authorizes and provides the at least one client with access to the first set or a second set of the electronic training devices. See Col.6: 25-34.
Authorization of the client is considered to be an inherent feature of Freeman's invention.

8. [Claim 13]: Regarding Claim 13, Freeman discloses wherein the communication system is operatively coupled to the at least one client by a network. See Col.5: 1-4.

9. [Claims 14,24,34]: Regarding Claims 14,24, and 34, Freeman discloses wherein the interface system translates the control data from a first format understood by the at least one client to a second format understood by a first set or a second set of the electronic training devices. See Col.5: 10-17.

10. [Claims 15, 25,35]: Regarding Claims 15,25, and 35, Freeman discloses an infrastructure control system (i.e. operating system) that communicates with the control system (i.e. host system) to enable a second set of the electronic training devices to be used with the first set for the training exercise. See Col.4: 33-51.

Response to Arguments

Applicant's arguments with respect to claims 5-35 have been considered but are moot in view of the new ground(s) of rejection. This action is made NON-FINAL.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Ziv-EI (US 6,302,698)
 - method and teaching apparatus for on-line teaching and learning
- Eisendrath et al. (US 6,347,333)
 - online virtual campus
- Bell et al. (US 6,014,134)
 - network-based intelligent tutoring system
- Dorcely (US 6,287,125)
 - presentation and response system
- Derks et al. (US 6,021,119)

- multiple site interactive response system
- Lemelson et al. (US 5,823,788)
- interactive educational system and method

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

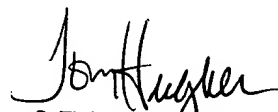
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Ch.
ch.

November 15, 2002

Chanda L. Harris
Examiner
Art Unit 3714


S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.